

Chapter 17.43 AIRPORT HEIGHT ZONING ORDINANCE

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17.43.010 Short title.

This chapter shall be known and may be cited as the "Airport Height Zoning Ordinance of the City of Davenport." (Ord. 83-730 § 2).

17.43.020 Conflicting regulations.

As established by Chapter 329 of the Code of Iowa, 1983, entitled "Airport Zoning", as the same may be amended from time to time, in the event of any conflict between this chapter and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Ord. 83-730 § 3).

17.43.030 Definitions.

Unless otherwise expressly stated, or the context clearly indicates a different intention, the following terms shall, for the purposes of this chapter, have the meanings of this chapter. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular. The word "shall" is mandatory and the word "may" is permissive.

- A. "Airport" means the Davenport Municipal Airport, Davenport, Iowa, an area set aside for the landing and take-off of aircraft.
- B. "Airport elevation" means the highest point of the Davenport Municipal Airport's usable landing area measured in feet above mean sea level; which elevation is established to be seven hundred fifty-three feet.
- C. "Airport hazard" means any structure or tree or use of land which exceeds the limiting heights in this chapter.
- D. "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented by this chapter.
- E. "Director" means the Director of Community Development or his designee.
- F. "Nonconforming use" means any structure, tree or use of land existing on the effective date of this chapter which is inconsistent with this chapter.
- G. "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- H. "Primary surface" means an area longitudinally centered on a runway and extending two hundred feet beyond each end of each runway. The width of the primary surface is one thousand feet for Runway 15-33 and five hundred for Runway 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The runway shall mean the future runway(s) as shown in the Davenport Airport Master Plan.
- I. "Structure" means any object constructed or installed by man, including, but without limitation, mobile objects, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.
- J. "Tree" means any object of natural growth.
- K. "Zone" means a portion of the airport hazard area. (Ord. 83-730 § 4).

17.43.040 Zones and height limitations.

A. There is hereby established an airport hazard area composed of the approach, conical, horizontal, and transitional zones, each having specific height limitations for structures and trees.

B. The boundaries of the airport hazard area and its zones are shown on the Davenport Municipal Airport Height Zoning Map which is made a part of this chapter. The map and all the notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the map and all the notations, references and other information shown thereon were all fully set forth or described in this chapter. The map shall be on file with the Davenport City Clerk.

C. The various zones are defined as follows:

1. HORIZONTAL ZONE - The land lying under a horizontal surface. The horizontal surface is one hundred forty-seven feet above the established airport elevation and the perimeter is constructed by swinging arcs of ten thousand feet radii from the center of each end of the primary surface of Runways 15, 33, 3 and 32 and connecting the adjacent arcs by lines tangent to those arcs. No structure or tree shall exceed one hundred forty-seven feet above the established airport elevation in the horizontal zone, as depicted on the Davenport Municipal Airport Height Zoning Map.

2. CONICAL ZONE - The land lying under a conical surface. The conical surface extends outward and upward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet. No structure or tree in the conical zone shall penetrate the conical surface, as depicted on the Davenport Municipal Airport Height Zoning Map.

3. APPROACH ZONE - The land lying under an approach surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface.

a. The inner edge of the Approach Surface is:

- (1) Five hundred feet wide for Runways 3 and 21;
- (2) One thousand feet wide for Runways 15 and 33.

b. The outer edge of the approach surface is:

- (1) Three thousand five hundred feet wide for Runways 3, 21 and 33;
- (2) Sixteen thousand feet wide for Runway 15.

c. The approach surface extends for a horizontal distance of:

- (1) Ten thousand feet at a slope of 34:1 for Runways 3, 21, and 33;
- (2) Ten thousand feet at a slope of 50:1 and then forty thousand feet at a slope of 40:1 for Runway 15.

No structure or tree in the approach zone shall penetrate the approach surface to any runway, as depicted on the Davenport Municipal Airport Height Zoning Map.

4. TRANSITIONAL ZONE - The land lying under the transitional surface. The transitional surface extends outward and upward at right angles to the runway centerline and the runway centerline extended, at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. The transitional surface begins at the side of and at the same elevation as the approach surfaces and extends upward and outward to the conical surface at a slope of 7:1; or, if outside the conical surface, it extends upward and outward a distance of five thousand feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline. No structure or tree in the transitional zone shall penetrate the transitional surface, as depicted on the Davenport Municipal Airport Height Zoning Map.

D. An existing or proposed structure or tree located in more than one of the zones is considered to be only in the zone with the more restrictive height limitation.

E. EXCEPTED HEIGHT LIMITATIONS. Nothing contained in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to thirty-five feet above the surface of the land. (Ord. 83-730 § 5).

17.43.050 Nonconforming uses.

A. This chapter shall not be construed to require the removal, lowering, or other change or alteration of any existing structure or tree, or to interfere with any existing use not conforming on the effective date of this chapter, except that no nonconforming use shall be allowed to become a greater airport hazard than it was on the effective date of this chapter.

B. Nothing contained in this chapter shall require any change in the construction or alteration of any structure, the construction or alteration of which was authorized by a permit dated prior to the effective date of this chapter and is diligently prosecuted.

C. The person owning any nonconforming structure or tree is hereby required to allow the installation, operation and maintenance thereon of markers and lights at the expense of the City of Davenport to indicate to the operators of aircraft the presence of airport hazards.

D. If a nonconforming structure has been torn down, damaged, or has physically deteriorated to the extent of more than sixty-five percent of its current fair market value, as determined by the airport zoning board of adjustment, no permit shall be issued for its restoration except in conformity to this chapter. (Ord. 83-730 § 6).

17.43.060 Applications and permits.

A. Structures. An application for a building permit shall be made and a permit granted prior to the construction or locating of a new structure or the alteration of an existing structure within the airport hazard area. Applications shall indicate the purpose for which the permit is desired and have sufficient detail to determine if this chapter will be violated. No permit for a new structure or a change in an existing structure which would be inconsistent with this chapter shall be granted unless a variance has been obtained.

B. Trees. A permit shall not be required for trees. The lack of a requirement for a permit for any tree shall not be construed as permitting or intending to permit the tree to eventually grow to a height inconsistent with this chapter. The owner of such a tree shall trim it as often as necessary in order to keep the tree from being in violation of this chapter and the trimming shall be done at the owner's expense. (Ord. 83-730 § 7).

17.43.070 Enforcement.

It shall be the duty of the director to administer and enforce this chapter and to cooperate with the officials of neighboring municipalities in the review of any application for a variance submitted to the airport zoning board of adjustment. Applications for permits required by this chapter shall be promptly considered and granted or denied by a written decision. (Ord. 83-730 § 8).

17.43.080 Variances.

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use the property in violation of this chapter, and having been aggrieved or affected by any written decision of the director, may apply to the airport zoning board of adjustment for a variance in accordance with Chapter 329 of the Code of Iowa, 1983, as the same may be amended from time to time.

Applying for a variance shall be done by filing a notice of appeal specifying the grounds thereof. The notice of appeals shall be filed with the director within thirty calendar days after receipt of the written decision. Upon receipt of a notice of appeal, the director shall immediately transmit to the chairman of the airport zoning board of adjustment all the papers constituting the record upon which the action appealed from was taken. The chairman shall then set a meeting date for the airport zoning board of adjustment. The meeting date shall be within forty-five calendar days of the date of the notice of appeal. Determinations from the Federal Aviation Administration and the Davenport Airport Manager, as to the effect of the proposal on the operation of air navigation facilities and the same, efficient use of air space should be obtained. If such determinations are not available for the airport zoning board of adjustment meeting, the discussion of the appeal may be extended to a later date when the determinations are available, or a decision may be made without those determinations.

Any such variance granted may be subject to reasonable conditions, including, but not limited to, the right of the City of Davenport to install, operate and maintain at city expense such markers and lights thereon as may be necessary to indicate to the operators of aircraft the presence of a hazard. (Ord. 83-730 § 9).

17.43.090 Airport zoning board of adjustment.

A. There is hereby created an airport zoning board of adjustment with the duties and powers, as provided by Chapter 329 of the Code of Iowa, 1983, as the same may be amended from time to time.

B. The airport zoning board of adjustment shall consist of seven members: two residents of Davenport appointed by the Davenport City Council; two residents of Eldridge appointed by the Eldridge City Council; two residents of the unincorporated area appointed by the Scott County Board of Supervisors and one selected by the concurring vote of at least four members of the members appointed to the airport zoning board of adjustment, who shall act as chairman.

The terms of the members of the airport zoning board of adjustment shall be five years except that when the airport zoning board of adjustment is first created. One of the members appointed by Davenport, Eldridge, and Scott County shall be appointed for a term of two years and one for a term of four years. Members shall be removable for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected.

C. The airport zoning board of adjustment shall adopt rules of governing its meetings. Such rules shall be in addition to, but not in conflict with, those in Chapters 414.9 and 358A.12 of the Code of Iowa, 1983, as the same may be amended from time to time; and such rules shall not be in conflict with this chapter.

D. The concurring vote of four members of the airport zoning board of adjustment shall be necessary to reverse or affirm, wholly or in part, or to modify any order, requirement, decision, or determination appealed from. (Ord. 83-730 § 10).

17.43.100 Penalty.

A. Specific actions.

1. Misdemeanor - single offense. Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars for each offense or imprisoned in the county jail for a period not exceeding thirty days. Each separate provision of this chapter violated shall constitute a separate offense.

2. Misdemeanor - Multiple offenses. Each day that the violation is permitted to exist after notification in writing by the director and the expiration of the time designated for correction in the aforesaid notification shall constitute a separate offense. No person shall be deemed guilty of multiple offenses of this chapter until receipt of the aforesaid notice and expiration of the time designated therein; however, receipt of such notice is not a prerequisite to prosecution for single offenses as set forth above.

3. Civil actions. In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or tree grown in violation of this chapter or any regulation made under authority conferred hereby, the director, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful act or to restrain, correct, or abate such violation, including, but not limited to, denying the occupancy of said structure and trimming or removing any tree.

B. Nuisance abatement. Any structure erected, raised, converted or tree grown in violation of any of the provisions of this chapter or the requirements thereof, is declared to be a common nuisance and such common nuisance may be abated in such manner as nuisances are now or may hereafter be abated under existing law. (Ord. 83-730 S 11).